

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

v.

DONALD HILDEBRANDT

Defendant

*

* Criminal Case No. SAG-21-0202

Civil Case No: SAG-23-3543

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ORDER

Having reviewed Defendant's pro se motion to vacate pursuant to 28 U.S.C. § 2255, ECF 111, which alleges that defense counsel did not file a notice of appeal after having been asked to do so, and the Government's opposition, ECF 126, which attaches a declaration from defense counsel indicating a lack of recollection about the relevant discussions with her client, ECF 126-4, this Court will GRANT Defendant's motion without an evidentiary hearing. Prejudice is presumed in circumstances where a defendant requests counsel to file a notice of appeal, *United States v. Poindexter*, 492 F.3d 263, 268 (4th Cir.2007), and in the circumstances of this case, an evidentiary hearing is unlikely to further illuminate the issue of whether the request was made, given that the defense attorney cannot recall. In the interests of justice and judicial efficiency, this Court will GRANT Defendant's motion, VACATE its original judgment, and re-enter an identical judgment as of today's date, which will give Defendant an additional fourteen days to file a notice of appeal. To ensure that Defendant's opportunity to appeal is preserved, this Court ORDERS the Office of the Federal Public Defender to file a notice of appeal upon receipt of this order and the newly-entered judgment.

SO ORDERED this 5th day of September, 2024.

/s/

Stephanie A. Gallagher

United States District Judge